



## **DEPARTMENT OF TRANSPORTATION**

### **Pipeline and Hazardous Materials Safety Administration**

**[Docket No. PHMSA-2022-0137]**

#### **Pipeline Safety: Random Drug Testing Rate; Management Information System Reporting; and Obtaining Drug and Alcohol Management Information System Sign-In Information**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice.

**SUMMARY:** PHMSA has determined that the minimum random drug testing rate for covered employees will be reduced to 25 percent during calendar year 2023. Operators are reminded that drug and alcohol (D&A) testing information must be submitted for contractors who are performing or are ready to perform covered functions. For calendar year 2022 reporting, the username and password for the Drug and Alcohol Management Information System (DAMIS) will be available in the PHMSA Portal.

**DATES:** Applicable January 1, 2023, through December 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** Wayne Lemoi, Drug & Alcohol Program Manager, Office of Pipeline Safety, by phone at 909-937-7232 or by e-mail at [wayne.lemoi@dot.gov](mailto:wayne.lemoi@dot.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Notice of Calendar Year 2023 Minimum Annual Percentage Rate for Random Drug Testing**

Operators of gas, hazardous liquid and carbon dioxide pipeline facilities, liquefied natural gas (LNG) plants, and underground natural gas storage facilities must randomly select and test a percentage of all covered employees for prohibited drug use in accordance with 49 Code of Federal Regulations (CFR) part 199. The Administrator can adjust this random drug testing rate based on the reported positive rate in the industry's random drug tests, which is submitted in operators' annual MIS reports as required by § 199.119(a). In accordance with § 199.105(c)(3), if the reported positive drug test rate is below 1.0 percent for 2 consecutive calendar years, the Administrator can lower the random drug testing rate to 25 percent of all covered employees.

Pursuant to § 199.105(c)(3), the Administrator is lowering the PHMSA minimum annual random drug testing rate for all covered employees to 25 percent in calendar year 2023 because the random drug test positive rate for the pipeline industry was reported at less than 1.0 percent in the consecutive calendar years of 2020 and 2021.

### **Reminder for Operators to Report Contractor MIS Data**

In 2021, PHMSA released new PHMSA Supplemental Instructions for DOT Drug & Alcohol Management Information System Reporting online. These instructions provide operators with the appropriate process for collecting and reporting annual D&A testing data for contractors. The supplemental instructions help ensure that PHMSA can identify all the contractors who performed D&A covered functions for a specific pipeline operator; identify all the pipeline operators for whom a specific contractor performed D&A covered functions; and has received a complete and accurate MIS report for each contractor who performed D&A covered functions on any PHMSA-regulated pipeline or facility in the applicable calendar year.

Pursuant to §§ 199.119(a) and 199.229(a), an operator having more than 50 covered employees is a large operator and an operator having 50 or fewer covered employees is a small

operator. While contractor employees are covered employees per the regulations in § 199.3 and must be treated as such with regards to part 199, contractor employees are not included in the calculation to determine if an operator is a large or small operator.

Large operators are always required to submit annual MIS reports whereas small operators are only required to submit MIS reports upon written request from PHMSA. If a small operator has submitted an MIS report for calendar year 2020 or 2021, the PHMSA Portal message may state that no MIS report is required for calendar year 2022. If a small operator has grown to more than 50 covered employees during calendar year 2022, the PHMSA Portal message will include instructions for how to obtain a DAMIS username and password for the 2022 calendar year reporting period.

If an operator is required to submit an MIS report in accordance with part 199, that report is not complete until PHMSA receives an MIS data report for each contractor that performed covered functions as defined in § 199.3. Operators must submit operator and contractor employee testing data in separate MIS reports to avoid duplicative reporting and inaccurate data that could affect the positive rate for the pipeline industry.

### **Reminder of Method for Operators to Obtain Username and Password for Electronic Reporting**

By early January 2023, the username and password required for an operator to access DAMIS and enter calendar year 2022 data will be available to all operator staff with access to the PHMSA Portal. Pipeline operators have been submitting reports required by 49 CFR parts 191 and 195 through the PHMSA Portal (<https://portal.phmsa.dot.gov/pipeline>) since 2011. PHMSA determined that distributing information via the PHMSA Portal would be more effective than the previous mailing process.

When the DAMIS username and password are available in the PHMSA Portal, all registered users will receive an email to that effect. If operator staff responsible for submitting MIS reports do not receive the DAMIS information, they should coordinate with other registered

PHMSA Portal users within their company to obtain the DAMIS username and password.

Registered PHMSA Portal users for operators typically include operator staff or consultants who submit annual and incident reports through PHMSA F 7000- and 7100-series forms.

Operators that have not previously registered staff in the PHMSA Portal for the reporting purposes of parts 191 and 195 can register users by following the instructions at:

<https://portal.phmsa.dot.gov/PHMSAPortal2/staticContentRedesign/howto/PortalAccountCreation.pdf>.

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**Alan K. Mayberry,**  
*Associate Administrator for Pipeline Safety.*

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